IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Civil contempt Petition No. 85 of 2001

Smt. Parwati Devi
W/o late Durlabh Singh Rana
R/o Village Maithana,
Post Office Maithana,
District Chamoli.

....…… Petitioner

Versus

1. Shri T.P. Pathak, I.A.A.
   Director
   Child Development and Nutrition
   Directorate, Indira Bhawan,
   Lucknow.
2. Shri Satyajeet Thakur, I.A.S.
   Director
   Child Development and Nutrition
   Lucknow.
3. Shri Chandra Prakash, I.A.S.
   Director
   Child Development and Nutrition
   Directorate, Indira Bhawan,
   Lucknow.

…. Respondents

Mr. Pankaj Purohi, learned counsel for the petitioner.
Mrs. Bina Pande, Standing Counsel for the State o f U.P.

Hon'ble Prafulla C. Pant, J.

Learned counsel for the parties are present.

2) By means of this petition, the petitioner has complained disobedience of order dated 06.11.2000, passed by Allahabad High Court, in Writ Petition No. 47920 (M/S)

of 2000, in which following direction was issued to the respondents:

> ***"The writ petition is finally disposed of with the direction that the respondent No. 2 shall himself look into the matter and pass appropriate speaking orders within two months from the date of production of a certified copy of this order before him. He shall ensure that all the retrial and pensionary benefits, including family pension to the petitioner are settled, which may be payable to the petitioner, according to law, if there is no legal impediment.***
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> ***If for no fault of the petitioner of her late husband, the pensionary benefits were not released within time the petitioner shall be entitled to interest at the rat of 12% per annum to be reckoned from the date which falls after six months of the retirement of the deceased employee in view of the decision of the apex court in the celebrated decision in D.S. Nakara's case."***

3) In the counter affidavit filed on behalf of respondent No. 2 Satyajeet Thakur, the Director, Child Development and Nutrition, Directorate, Lucknow, it is stated that husband of the petitioner was earlier working in a non-pensionable project. Services of employees of said project were merged with the Directorate of Child Development. The husband of the petitioner did not fulfill the minimum requirement for entitlement of the pension, as he got retired within nine months and 27 days of the merger. Referring to the Government Orders applicable to the case, in the counter affidavit it has been stated that the representation of the

petitioner was considered and disposed of vide order dated 11.04.2000, by a speaking order, a copy of which is Annexure C.A.–1 to the counter affidavit filed by respondent No. 2 Satyajeet Thakur.

4) In view of the speaking order passed by respondent, whereby the representation of the petitioner is rejected, as under the Government Orders, services of her husband were said to be non-pensionable, it cannot be said that respondents have committed any wilful disobedience of the court's order.

5) Learned counsel for the petitioner argued that in the similar circumstances, one Smt. Mangsiri Devi was given pensionary benefits, while the petitioner is being deprived. In reply to this attention of this Court is drawn towards the counter affidavit filed by respondent No. 3 and on the Government Orders dated 24.08.1966 and 25.06.1984. It is contended on behalf of the respondents that, since, the petitioner's husband did not fulfill the condition for the pensionary benefit, as such, there was no question of the entitlement of the family pension to her.

6) In view of the above discussion, the Contempt Petition is dismissed. Notices issued to the respondents are hereby discharged.

(Prafulla C. Pant, J.)

Dt. August 07, 2007.
H. Negi